

M-09-514

JP:KKO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

CLEVELAND GEORGE NICHOLAS,
also known as
"Cliff James,"

Defendant.

COMPLAINT AND AFFIDAVIT
SUPPORT OF ARREST WARRANT

(T. 8, U.S.C. §§ 1326(a)
and 1326(b)(1))

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EASTERN DISTRICT OF NEW YORK, SS:

KENNETH LOPEZ, being duly sworn, deposes and states that he is a Deportation Officer with United States Immigration and Customs Enforcement, duly appointed according to law and acting as such.

On or about April 18, 2009, within the Eastern District of New York and elsewhere, the defendant CLEVELAND GEORGE NICHOLAS, also known as "Cliff James," being an alien who had previously been arrested and convicted of a felony, to wit: Attempted Criminal Possession of Weapon in the third degree, in violation of Section 265.02, of the New York Penal Law, and was thereafter deported from the United States and who had not made a re-application for admission to the United States to which the

Secretary of the United States Department of Homeland Security had expressly consented, was found in the United States.

(Title 8, United States Code, Section 1326(b)(1)).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I am a Deportation Officer of United States Customs and Immigration Enforcement ("ICE") and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about April 18, 2009, the defendant CLEVELAND GEORGE NICHOLAS, also known as "Cliff James," was arrested by the New York City Police Department ("NYPD"), in Brooklyn, New York. The defendant was arrested for Assault in the First Degree, in violation of Section 120.10, subsection 1, of the New York Penal Law, and Attempted Murder in the Second Degree, in violation of Section 125.25, subsection 3, of the New York Penal Law.

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

3. Subsequent to the arrest, the NYPD ran a criminal history report and found that the defendant, a citizen of Panama, had been previously removed from the United States on December 28, 1998.

4. ICE compared the defendant's fingerprints from his January 18, 1998 NYPD arrest referred to below with his fingerprints in his INS file related to his December 28, 1998 deportation and determined they were made by the same individual.

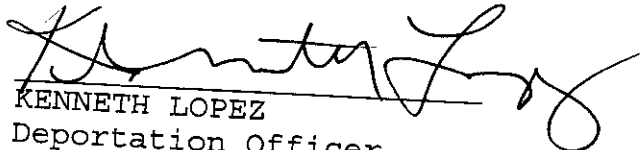
5. The New York Department of Criminal Justice Services notified ICE of the defendant's arrest, and ICE officials determined that on or about June 24, 1998, the defendant had been convicted of Attempted Criminal Possession of Weapon in the third degree, in violation of Section 265.02, of the New York Penal Law, a felony offense.

6. I have reviewed official ICE records, which document that on or about December 28, 1998, the defendant, CLEVELAND GEORGE NICHOLAS, also known as "Cliff James," was deported from the United States, out of Houston International Airport in Houston, Texas, to his home country of Panama pursuant to Section 237(a)(2)(C) of the Immigration and Nationality Act.

7. A preliminary search of the files of the Department of Homeland Security has revealed that there exists no request by the defendant for permission from the Attorney General

or the Secretary of the United States Department of Homeland Security to re-enter the United States after deportation.

WHEREFORE, your deponent respectfully requests that the defendant CLEVELAND GEORGE NICHOLAS, also known as "Cliff James," be dealt with according to law.


KENNETH LOPEZ
Deportation Officer
Immigration and Customs Enforcement

Sworn to before me this
26th day of May, 2009

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK